

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
(TOLEDO)

R. ALEAXANDER ACOSTA,	:	
Secretary of Labor,	:	Case No. 3:18 CV 1556
United States Department of Labor,	:	
	:	
	:	
Plaintiff,	:	
	:	Judge: JACK ZOUHARY
v.	:	
	:	
CLIFFORD ROBINETTE, et. al.,	:	
	:	
Defendants.	:	
	:	

CONSENT ORDER AND JUDGMENT

Plaintiff R. Alexander Acosta, Secretary of Labor, United States Department of Labor (“Secretary”), pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, *et seq.*, as amended (“ERISA”), filed a complaint against Clifford Robinette, Marlene Robinette, Wendy Mowry, and Techniform Industries (“Defendants”), alleging breaches of fiduciary duty under Title I of ERISA, with respect to the Techniform Industries Inc., 401(k) Plan (“Plan”). Defendants admit to the jurisdiction of this Court over them and the subject matter of this action.

The Secretary and the Defendants (collectively, “Parties”) have agreed to resolve all matters in controversy in this action between them, and they consent to the entry of this Consent Order and Judgment (“Judgment”). Upon consideration of the record herein and as agreed upon by the Parties, the Court finds that it has jurisdiction to enter this Judgment.

It is hereby ORDERED, ADJUDGED, ACKNOWLEDGED, AND DECREED that:

1. The Defendants have restored \$23,716.60 to the Plan.
2. The Secretary assessed a penalty under ERISA § 502(l), 29 U.S.C. § 1132(l), of \$4,743.32, which is 20% of the “applicable recovery amount” of \$23,716.60 as defined in ERISA § 502(l)(2), 29 U.S.C. § 1132(l)(2) (“502(l) Penalty”). The Defendants paid the \$4,743.32 penalty.
3. Defendants Clifford Robinette, Marlene Robinette, and Wendy Mowry waive all rights to their unremitted loan repayments and related lost opportunity costs. Specifically, Defendant Clifford Robinette waives his rights to \$56,180.21 in unremitted loan repayments as well as any related lost opportunity costs; Defendant Marlene Robinette waives her rights to \$10,560.90 in unremitted loan repayments as well as any related lost opportunity costs; and Defendant Wendy Mowry waives her rights to \$8,371.29 in unremitted loan repayments as well as any related lost opportunity costs.
4. Within thirty (30) days from the date of this Order, Defendant Wendy Mowry will contact John Hancock and receive instructions for the Plan’s termination. Within sixty (60) days from the date of this Order, Defendant Wendy Mowry will send distribution instructions to participants. Defendant Wendy Mowry will provide documentation to the DOL within ten (10) days after her completion of the actions in this paragraph.
5. Within 30 days from the date that Defendant Wendy Mowry receives distribution elections from the participants, she shall authorize John Hancock to complete the distributions in accordance with the participants’ elections. Defendant Wendy Mowry will provide documentation to the DOL within ten (10) days after her

completion of the actions in this paragraph.

6. The documentation described in paragraphs 4 and 5 shall be sent to:

Regional Director
Employee Benefits Security Administration
Fort Wright Executive Building I, Suite 20
1885 Dixie Highway
Fort Wright, KY 41011-2664

7. Following the complete distribution of the Plan's assets and termination of the Plan, Defendant Wendy Mowry shall be permanently enjoined from serving as a fiduciary or a service provider to any ERISA covered plan in the future.

8. Upon entry of this Order, Defendants Clifford Robinette and Marlene Robinette shall be permanently enjoined from serving as a fiduciaries or service providers to any ERISA covered plan in the future.

9. This Court will retain jurisdiction over the Parties and subject matter of this action for enforcing and interpreting the terms of this Judgment.

10. The Parties will each bear their own costs, expenses, and attorneys' fees incurred by such party in connection with any stage of this proceeding to date, including attorneys' fees that might have been available under the Equal Access to Justice Act, as amended.

11. Nothing in this Order is binding on any government agency other than the United States Department of Labor.

IT IS SO ORDERED.

Date: April 25, 2019

s/ Jack Zouhary
JUDGE JACK ZOUHARY
UNITED STATES DISTRICT COURT JUDGE

UNITED STATES DISTRICT COURT JUDGE


WENDY MOWRY


CLIFFORD ROBINETTE


MARLENE ROBINETTE

TECHNIFORM INDUSTRIES, INC.

By 

Its _____

TECHNIFORM INDUSTRIES, INC.
401(k) PLAN

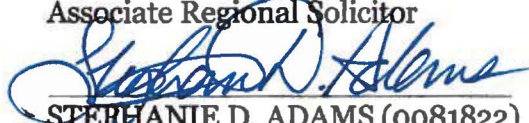
By 

Its _____

KATE S. O'SCANNLAIN
Solicitor of Labor

CHRISTINE Z. HERI
Regional Solicitor

BENJAMIN T. CHINNI
Associate Regional Solicitor


STEPHANIE D. ADAMS (0081822)
Trial Attorney

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1240 East Ninth Street, Room 881
Cleveland, Ohio 44199
(216) 522-3877 (phone)
(216) 522-7172 (facsimile)


CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing *Consent Order and Judgment* was served upon all pro se parties via mail and/or email to the following addresses on March 18, 2019.

Wendy Mowry
2107 Hayes Avenue
Fremont, OH 43420
Defendant

Marlene and Clifford Robinette
344 Riverside Drive
Fremont, OH 43420
Defendants

DEAN LI,
3421 Magnolia Way
Broadview Heights, OH 44147
Agent for Sandusky Technologies, LLC



Stephanie D. Adams
Trial Attorney